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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,845	03/04/2002	Julio A. Abusleme	108910-00057	4315

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EXAMINER

ZACHARIA, RAMSEY E

ART UNIT PAPER NUMBER

1773

DATE MAILED: 03/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/086,845

Applicant(s)

ABUSLEME ET AL.

Examiner

Ramsey Zacharia

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6-16 is/are rejected.
- 7) ☒ Claim(s) 4 and 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

2. Claims 1-3, 6-9, and 11-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abusleme et al. (EP 1,038,914 A1) in view of Stoeppelmann (U.S. Patent 5,869,157).

Abusleme et al. teach a multilayer article that may be used as a fuel hose comprising a layer of a fluorinated polymer composition and a layer of hydrogenated polymer (paragraph 0022). Suitable hydrogenated polymers include thermoplastic polymers, such as polyamides (paragraph 0023). The fluorinated polymer composition comprises a copolymer of ethylene with tetrafluoroethylene and/or chlorotrifluoroethylene modified with an acrylic monomer, such as n-butylacrylate, that reads on the monomer of formula (a) in instant claim 1 (paragraphs 0009 and 0011). The copolymer comprises 10-70 mole% ethylene, 30-90 mole% tetrafluoroethylene and/or chlorotrifluoroethylene, and 0.1-30 mole% of acrylic monomer (paragraph 0010).

Regarding claim 9, the tube of Abusleme et al. is taken to be in the form of sheath-core fibers since it has inner (i.e. core) and outer (i.e. sheath) layers.

Abusleme et al. do not teach the presence of a layer comprising diamines and a polyamide having an amount of -NH₂ end groups in the range of 40-300 µeq/g. However, Abusleme et al. do teach a tube comprising a layer of a fluoropolymer and a layer of polyamide.

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Stoeppelmann is directed to an adhesion promoter that bonds fluoropolymers to polyamides for use in multilayer tubes (column 2, lines 33-41). In one embodiment the adhesion promoter comprises a polyamide having an -NH_2 end group concentration of $50 \mu\text{eq/g}$ and a diamine, such as decyldiamine or dodecyldiamine (column 4, lines 1-14). In an alternative embodiment, the adhesion promoter comprises the diamine and a polyamide having an equal amount of -NH_2 and -COOH end groups (column 4, lines 20-26). The amount of -NH_2 groups in this alternative embodiment should be about $35 \mu\text{eq/g}$ (total number of end groups = -NH_2 end groups + -COOH end groups = $20 \mu\text{eq/g} + 50 \mu\text{eq/g} = 70 \mu\text{eq/g}$; if the polymer has an equal amount of -NH_2 and -COOH end groups it should have $35 \mu\text{eq/g}$ of each). The diamine is present in an amount of 0.25-2 wt% (column 4, lines 12-14).

One of ordinary skill in the art would be motivated to use the adhesion promoter of Stoeppelmann in the article of Abusleme et al. to tightly adhere the fluoropolymer and polyamide layers together.

3. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abusleme et al. (EP 1,038,914 A1) in view of Stoeppelmann (U.S. Patent 5,869,157) as applied to claim 1 above, and further in view of Krause et al. (U.S. Patent 5,958,532).

Abusleme et al. taken in view of Stoeppelmann teach all the limitations of claim 10, as outlined above, except for the present of an inner layer that is made conductive by the incorporation of graphite and/or carbon black.

Krause et al. is directed to a fluoropolymer hose that may be used in a fuel line (column 1, lines 15-17). The hose comprises two fluoropolymers layers (column 2, lines 23-29). The

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inner fluoropolymer layer has electrostatic discharge resistance, allowing electrostatic charge generated during the flowing of fuel to be carried to the ground (column 3, lines 52-63). The most preferred fluoropolymer for the inner fluoropolymer layer is ETFE sold under the Tefzel[®] trademark (column 3, line 64-column 4, line 20). Tefzel[®] ETFE fluoropolymers are composed of about 40-70 % ethylene and 30-60% tetrafluoroethylene.

One of ordinary skill in the art would be motivated to add an inner fluoropolymer layer of ETFE having electrostatic discharge resistance to the fuel hose of Abusleme et al. to yield a safer product by allowing electrostatic charge generated during use to be carried to the ground.

Response to Arguments

4. Applicant's arguments filed 25 February 2005 have been fully considered but they are not persuasive.

The applicants argue that Abusleme et al. and Stoeppelmann both teach that diamines or crosslinking agents are essential to achieve adhesion. This is in contrast to the claimed invention which exhibits sufficient adhesion between a particular fluoropolymer and a particular polyamide without the need for diamines or crosslinking agents. The applicants argue that the language of claims 1 and 6 clearly identifies the basic and novel characteristics of the present invention - adhesion of the fluoropolymer to the polyamide without the need for additional components.

This is not persuasive because it does not establish a difference between the claimed article and the article of Abusleme et al. taken in view of the teachings of Stoeppelmann. While diamines or crosslinking agents are not required by instant claims 1 and 6, the applicants

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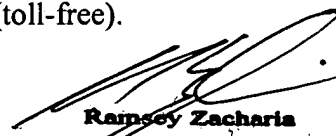
concede that the diamines and crosslinking agents disclosed in the cited references are components which do not affect the basic and novel characteristics of the present invention (see page 2, lines 13-16 of the response filed 25 February 2005). Since "consisting essentially of" limits the scope of a claim to the specified materials and those that do not materially affect the basic and novel characteristics of the claimed invention, claims 1 and 6 are open to the inclusion of diamines and crosslinking agents. As such, there is no distinction between the invention as claimed and the article of Abusleme et al. taken in view of Stoeppelmann since the invention as claimed may contain diamines and crosslinking agents.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramsey Zacharia whose telephone number is (571) 272-1518. The examiner can normally be reached on Monday through Friday from 9 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney, can be reached at (571) 272-1284. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ramsey Zacharia
Primary Examiner
Tech Center 1700